



Capital Metropolitan Transportation Authority
2910 East Fifth Street | Austin, Texas 78702
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October 7, 2019

VIA CERTIFIED MAIL: CMRRR #7007 1490 4426 0178

The Honorable Ken Paxton
Attorney General of Texas
Attn: Open Records Division
P.O. Box 12548
Austin, Texas 78711-2548

**Re: Request for Attorney General Decision
Public Information Request No.: 2019-09-756**

Dear General Paxton:

Capital Metropolitan Transportation Authority ("**Capital Metro**") received a written request under the Public Information Act (the "**Act**") by electronic mail dated September 23, 2019 from Mr. Joseph Durso, on behalf of MuckRock News ("**MuckRock**") ("**Requestor**"). A copy of the written request is enclosed. (**See Exhibit "A"**). The Requestor is seeking the following information:

- *The current passenger train emergency preparedness plan (aka "E-plan") submitted to and approved by the FRA in accordance with 49 CFR 239 for the MetroRail system. Please include all attachments, appendices, etc.*

Capital Metro has identified information responsive to the request above. Capital Metro believes that the information responsive to the request is protected from disclosure under the Act, and on October 2, 2019, a letter was sent electronically to the Requestor informing him of Capital Metro's decision to seek a decision from the Attorney General regarding the (**See Exhibit "B"**).

Capital Metro believes the information requested is protected from disclosure under the following sections of the Act:

Section 552.101 Information Confidential by Law, which provides that information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Some of the information identified as potentially responsive to the request is confidential under the Texas Homeland Security Act, specifically, Section 418.181, Government Code. Section 418.181 provides that "Those documents or portions of documents in the possession of a governmental entity are confidential if they identify the technical details of particular vulnerabilities of critical infrastructure to an act of terrorism."

The Requestor wants Capital Metro to provide a copy of its passenger train system ("**MetroRail**") Emergency Preparedness Plan ("**EPREP**") which was submitted to and

approved by the Federal Railroad Administration in accordance with Title 49 Code of Federal Regulations (**49 CFR**), Parts 238 and 239, Passenger Train Emergency Preparedness. The purpose of the planning document is to reduce the magnitude and severity of casualties in Capital Metro's passenger train operations by ensuring the railroad can effectively and efficiently manage emergencies. The release of this document compromises security of passengers and staff who use MetroRail services. Release of the EPREP compromises security and creates a significant risk for criminals or terrorists to determine which parts of the plan, including, emergency coordination strategy, could lead to vulnerability in Capital Metro's infrastructure or emergency response capabilities, and allow criminals or terrorists to defeat being detected or recorded. Furthermore, this information is Security Sensitive Information under Title 49 CFR, Part 1520, and this has been vetted previously with the Regional Surface Transportation Security Regional Inspector with the United States Department of Homeland Security.

In accordance with section 552.301(e) of the Texas Government Code, we are providing you a copy of the document responsive to the request for your review in consideration of the above-referenced exceptions. ("**See Exhibit C**"). We have highlighted those portions of the document that we believe fall within the applicable exceptions.

Capital Metro respectfully requests and awaits your decision with regard to release of this document. Please feel free to call me at (512) 369-6256 if I can be of further assistance or if you have any questions. Our fax number is (512) 389-7559.

Sincerely,



Ayeola Williams
Staff Attorney

Cc: Joseph Durso
MuckRock News